

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:

BAY CIRCLE PROPERTIES, LLC, *et al.*,

Debtors.

Chapter 11

Case No.: 15-58440-wlh
(Jointly Administered)

EMERGENCY MOTION TO RESCHEDULE HEARING

COME NOW SEG Gateway, LLC (“SEG”) and Good Gateway, LLC (“Good Gateway”, and collectively with SEG, “Gateway”), and file this Emergency Motion to Reschedule Hearing seeking an order to reschedule the hearing on Debtor Sugarloaf Centre, LLC’s (“Sugarloaf”) Motion to Dismiss currently noticed for August 30, 2018. Dkt. No. 100.¹ Sugarloaf filed the notice of hearing on July 25, 2018, with the knowledge that on June 20, 2018, more than a month prior, Judge Williamson, Chief Judge of the United States Bankruptcy Court for the Middle District of Florida, Tampa Division, entered an Order Scheduling Trial in the matter *In re Nilhan Financial, LLC* (Bankr. M.D.Fla. 8:17-bk-03597-MGW), a chapter 7 bankruptcy involving an affiliate entity of Mr. Chuck Thakkar, principal of the Debtors here. A true and correct copy of the Order Scheduling Trial is attached hereto as **Exhibit A**.

On August 20, 2018, only ten (10) days prior to the trial in the Nilhan Financial bankruptcy proceeding in Florida, Niloy Thakkar, the son of Mr. Chuck Thakkar, filed an *Emergency Motion to Continue August 30, 2018 Trial* (the “Nilhan Motion to Continue”) alleging, in relevant part:

¹ The Motion to Dismiss was docketed only in Sugarloaf’s bankruptcy case, see *In re Sugarloaf Centre, LLC*, No. 15-58442 (Bankr. N.D. Ga. filed July 25, 2018), despite the Court’s order of joint administration, see Dkt. No. 38.

12. Additionally, the manager of debtor at the time of the 2008 loan was Chuck Thakkar, Thakkar's father. Thakkar expects C. Thakkar to be an important witness at trial. On August 17, 2018, undersigned counsel received a letter from C. Thakkar's attorney in Atlanta stating that he has a **superior commitment** and must be in court in Atlanta on August 30. The letter is attached hereto as **Exhibit A**. While undersigned also represents C. Thakkar, individually, undersigned does not represent him in the matter in Atlanta, and was unaware of the conflict until C. Thakkar was informed that his appearance was necessary for the motion on or about August 15, the day of his deposition in this case.

Nilhan Motion to Continue, Dkt. No. 248, at 2-3, Bankr. M.D. Fla. 8:17-bk-03597-MGW (emphasis added).

The August 30, 2018 trial in the Nilhan Financial bankruptcy is on Gateway's and the Florida Chapter 7 Trustee's *Joint Motion to Approve Settlement Agreement* and, as noted above, has been set since June 20, 2018. Sugarloaf's principal, Mr. Chuck Thakkar, was present for several hearings in the Florida action and was well aware of the trial date.

Further, as the Court will recall, the Court previously denied a motion to dismiss the Sugarloaf case, which asserted similar grounds as the current Motion to Dismiss before the Court. *See* Dkt. Nos. 755, 786. The Court denied the motion because it determined it was in the interest of the estate and the creditors to continue to administer the estates of all the related entities. *See Order Denying Sugarloaf Centre, LLC's Motion to Dismiss Chapter 11 Case*, Dkt. No. 786, a true and correct copy of which is attached hereto as **Exhibit B**.

The undersigned counsel conferred with counsel for Debtors and requested consent to a continuance of the hearing on the Motion to Dismiss. As of the filing of this Motion, Debtors' counsel had not received authority to consent to a continuance.

In order to eliminate any scheduling conflict between the matters noticed in the two bankruptcy matters, Gateway respectfully requests that the hearing on the Motion to Dismiss be

delayed until the hearing on disclosure statements filed by the joint debtors in the instant case, which Debtors, Gateway, and the United States Trustee have agreed will be continued until some date in mid-October (or to some other date agreed to by the parties or set by the Court) to (i) permit Gateway the opportunity to receive and review certain materials subject to the Court's recent orders on Gateway's several Rule 2004 Motions and (ii) permit Debtors an opportunity to make certain revisions to their Disclosure Statements.

Respectfully submitted this 21st day of August, 2018.

/s/ Walter E. Jones

Walter E. Jones

Georgia Bar Number 163287

*Attorney for Good Gateway, LLC
and SEG Gateway, LLC*

BALCH & BINGHAM LLP
30 Ivan Allen Jr. Boulevard, N.W.
Suite 700
Atlanta, Georgia 30308
Telephone: (404) 261-6020
Facsimile: (404) 261-3656
wjones@balch.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 21, 2018, I electronically filed the foregoing *Emergency Motion to Reset Hearing* with the Clerk of the Court by using the Court's CM/ECF system, which will serve a notice to all counsel of record of by placing a copy of the same in the United States mail, postage prepaid to the attached certified matrix:

/s/ Walter E. Jones

Walter E. Jones

Georgia Bar Number 163287